

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

RYAN, LLC, *et al.*,

Plaintiffs,

v.

FEDERAL TRADE COMMISSION,

Defendant.

Civil Action No. 3:24-cv-986-E

**UNOPPOSED MOTION OF AMICI NATIONAL RETAIL FEDERATION,
NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL
BUSINESS LEGAL CENTER, INC., INTERNATIONAL FRANCHISE
ASSOCIATION, ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
AMERICAN HOTEL & LODGING ASSOCIATION, NATIONAL
ASSOCIATION OF WHOLESALE-DISTRIBUTORS, INDEPENDENT
ELECTRICAL CONTRACTORS, CONSUMER TECHNOLOGY
ASSOCIATION, UNITED STATES COUNCIL FOR INTERNATIONAL
BUSINESS, THE HOME CARE ASSOCIATION OF AMERICA, AND THE
RESTAURANT LAW CENTER FOR LEAVE TO FILE BRIEF IN SUPPORT
OF PLAINTIFFS' MOTIONS TO STAY EFFECTIVE DATE AND
PRELIMINARY INJUNCTION, ECF NOS. 23 & 46**

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UNOPPOSED MOTION FOR LEAVE TO FILE AMICUS BRIEF

Amici curiae, the National Retail Federation, the National Federation of Independent Business Small Business Legal Center, Inc., the International Franchise Association, the Associated Builders and Contractors, Inc., the American Hotel & Lodging Association, the National Association of Wholesaler-Distributors, the Independent Electrical Contractors, Consumer Technology Association, the United States Council for International Business, the Home Care Association of America, and the Restaurant Law Center (collectively, the “*amici*”) respectfully submit this unopposed motion for leave to file a brief in support of Plaintiffs’ Motions to Stay Effective Date and Preliminary Injunction, ECF Nos. 23 and 46 (the “Motions”), pursuant to Local Rule 7.2(b).

The eleven *amici* represent thousands of companies that collectively employ tens of millions of employees at all levels across virtually every facet of the U.S. economy. Their interest in the outcome of the litigation is that most of their members would qualify as “employers” under the Final Rule and the Final Rule would upend their contractual relations with their workforces.

“The extent to which the court permits or denies *amicus* briefing lies solely within the court’s discretion.” *United States ex rel. Gudur v. Deloitte Consulting LLP*, 512 F.Supp.2d 920, 927 (S.D. Tex. 2007), *aff’d sub nom. United States ex rel. Gudur v. Deloitte & Touche*, 2008 WL 3244000 (5th Cir. Aug. 7, 2008). Because

“[n]o statute, rule, or controlling case defines a federal district court’s power to grant or deny leave to file an *amicus* brief . . . district courts commonly refer to Rule 29 [of the Federal Rules of Appellate Procedure] for guidance.” *Id.*; *see also Wilson v. Austin*, 2023 WL 5674114, at *7 (E.D. Tex. 2023) (noting grant of leave to file *amicus* brief). Under Rule 29, private parties “may file a brief only by leave of court *or if the brief states that all parties have consented to its filing[.]*” Fed. R. App. P. 29(a)(2) (emphasis added). **Counsel for the Parties have stated that they consent to *amici* filing the proposed brief.**

Amici respectfully submit that the proposed brief will be helpful to the Court in resolving the pending motion. These *amici* represent industries in which narrowly tailored noncompete agreements, used appropriately, are critical to protect valuable trade secrets, customer relationships, and other workforce investments such that the Final Rule poses a critical threat to those industries. Moreover, the proposed brief will not cause any delay in the proceedings, nor will it prejudice any party, as confirmed by all Parties’ consent to the filing.

CONCLUSION

For these reasons, *amici curiae* ask the Court to grant leave to file the attached brief in support of Plaintiffs’ Motions.

Dated: May 14, 2024

Respectfully submitted,

/s/ Edward J. Loya Jr.

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CERTIFICATE OF COMPLIANCE

I hereby certify the foregoing complies with the Procedures for Cases Assigned to District Judge Ada Brown and Standing Order, that the foregoing brief contains 439 words, including footnotes, and excluding the case caption, table of contents, table of authorities, signature block, and certificates, and that foregoing is typed in 14-point font and the footnotes are typed in 11-point font.

Date: May 14, 2024

/s/ Edward J. Loya Jr.
Edward J. Loya Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing document was electronically filed in this matter with the Clerk of Court, using the ECF system, which sent notification of such filing to all counsel of record.

Date: May 14, 2024

/s/ Edward J. Loya Jr.
Edward J. Loya Jr.